

# **APPENDIX ILLINOIS RECOURSE CREDITS**

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**APPENDIX ILLINOIS RECOURSE CREDITS****1. INTRODUCTION**

- 1.1 SBC Communications Inc. (SBC) means the holding company which owns the following ILECs: Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company, Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone, L.P. d/b/a Southwestern Bell Telephone Company and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
- 1.2 As used herein, Ameritech-Illinois means Illinois Bell Telephone Company.
- 1.3 As used herein, **Consequential Damages** shall mean indirect, special, consequential, incidental or punitive damages, including loss on anticipated profits or revenues or any other economic loss in connection with or arising under the Agreement.
- 1.4 As used herein, **Customer Credits** shall mean those credits that CLEC provides to its end users pursuant to 83 IL Admin Code. Section 732.30 for violation of a Local Exchange Service Obligation.
- 1.5 As used herein, **Local Exchange Service Obligations** means those basic local exchange service standards that telecommunications carriers are expected to fulfill in accordance with 83 IL Admin. Code Section 732.20.
- 1.6 As used herein, **Recourse Credits** shall mean those credits that Ameritech-Illinois is required to provide to CLEC pursuant to 83 IL Admin. Code Section 732.35, to reimburse CLEC for those Customer Credits paid by CLEC in the event that CLEC's violation of a Local Exchange Service Obligation is caused by Ameritech-Illinois.
- 1.7 As used herein, **Recourse Credit Claim Form** shall mean the form which is attached as Exhibit RC completed by CLEC and submitted to Ameritech-Illinois to request and obtain Recourse Credits. Such form shall also be available on the SBC CLEC Online website: <https://clec.sbc.com>.
- 1.8 This Appendix implements an Illinois-specific requirement imposed by 83 Ill. Admin Code Section 732.35, and corresponds to the terms and conditions by which Ameritech-Illinois provides Recourse Credits to CLEC pursuant to 83 Ill. Admin. Code Section 732.35 and then only to the extent required by that regulation.

## 2. REQUEST FOR REIMBURSEMENT

- 2.1 CLEC shall submit a Recourse Credit Claim Form to Ameritech-Illinois' Local Service Center [specify address] by the 10<sup>th</sup> day of each month for which CLEC seeks Recourse Credits. The Recourse Credit Claim Form shall separately identify all Customer Credits made, paid or otherwise provided by the CLEC to its end users that were required by IL Admin. Code Section 732.30 during the preceding calendar month for which reimbursement is requested from Ameritech-Illinois.
- 2.2 The Recourse Credit Claim Form may also include requests pertaining to Customer Credits made, paid or otherwise provided by the CLEC to its end users in prior months and not previously requested by the CLEC in an earlier Recourse Credit Claim Form, provided, however, that the CLEC shall have a maximum of ninety (90) days from the date on which the Customer Credits were credited, paid or provided by the CLEC to its end users to request a Recourse Credit from Ameritech-Illinois. Provided further, that the CLEC shall have ninety (90) days from earliest of a) the effective date of 83 IL Admin. Code Section 732.35 or b) the effective date of this Appendix to request reimbursement for Customer Credits paid to end users from August 1, 2001 to such effective date of this Appendix.
- 2.3 By submitting a Recourse Credit Claim Form requesting a Recourse Credit, CLEC represents and warrants to Ameritech-Illinois that (i) at the time CLEC submits such a Recourse Credit Claim Form that the information contained within is a true and correct calculation of the credit claimed due to the CLEC based on information known to the CLEC and information received by the CLEC from its customer and relied upon for substantiation under 83 IL Admin. Code Section 732.30, and (ii) that a credit in an amount that is not less than the one sought from Ameritech-Illinois was actually made to CLEC's end user associated with alleged violation of a Local Exchange Service Obligation.
- 2.4 CLEC's Recourse Credit Claim Form shall include the following information with respect to each request for Recourse Credit:
- 2.4.1 The name and telephone number of the CLEC's end user that was alleged affected;
- 2.4.2 The specific Local Exchange Service Obligation that was violated;
- 2.4.3 Brief statement as to how the alleged actions or inactions of Ameritech-Illinois, or alleged failure or deficiency in any network element or service provided by Ameritech-Illinois to the CLEC, caused the violation of the Local Exchange Service Obligation by CLEC; and

- 2.4.4 Amount of Customer Credit made, paid or provided by CLEC to its end user (including the cost to the CLEC of any alternative telephone service provided to end user) for which Recourse Credit is requested, and the date or dates on which the Customer Credit was provided.

### 3. **RESPONSE TO REQUESTS FOR REIMBURSEMENT**

- 3.1 Ameritech-Illinois shall have thirty (30) calendar days after receipt of CLEC's Recourse Credit Claim Form to notify CLEC in writing if it disputes a request for a Recourse Credit. Such notice shall separately identify each request for Recourse Credit that is disputed, and the basis on which Ameritech-Illinois disputes the reimbursement. A request for a Recourse Credit which is not disputed in writing by Ameritech-Illinois within the thirty (30) calendar day period shall be reimbursed by Ameritech-Illinois, subject to Ameritech-Illinois' right to seek recovery of credits pursuant to Section 6 of this Appendix.
- 3.2 For each request for Recourse Credit that is timely disputed by Ameritech-Illinois, the parties shall use the dispute resolution process set forth in the Agreement.

### 4. **LIMITATION OF LIABILITY**

- 4.1 Ameritech-Illinois shall not be required to make, pay or otherwise provide any Recourse Credit unless CLEC (i) is legally required to make a Customer Credit to its end users under 83 IL Admin. Code Section 732.30 and (ii) actually makes, pays, or otherwise provides such Customer Credit. In no event shall any Recourse Credit include any amount attributable to any liquidated damages or Consequential Damages or any other damages that CLEC may have paid its end user in excess of those credits expressly required by 83 IL Admin. Code Section 732.30 (a) – (c).
- 4.2 Ameritech-Illinois shall not be required to provide CLEC with Recourse Credits if a violation of a Local Exchange Service Obligations resulted from one or more of the occurrences described in 83 IL Admin. Code Section 732.30 (e).
- 4.3 In the event that Ameritech-Illinois is not the sole cause of a CLEC violation of a Local Exchange Service Obligation, the Parties shall agree to a reduction of the Recourse Credit based upon a proper allocation of fault. If the Parties cannot agree to the proper allocation of fault, the Parties shall resolve the issue by following the dispute resolution process set forth in the Agreement.

## 5. METHOD AND TIMING OF REIMBURSEMENT

- 5.1 Recourse Credits made under this Appendix shall be credited to the CLEC on Ameritech-Illinois' invoice to the CLEC for network elements or other services on the first billing date that is not less than thirty (30) Business Days after the Ameritech-Illinois' receipt of the Recourse Credit Claim Form. Any Recourse Credit claims agreed to by Ameritech-Illinois after dispute resolution negotiations pursuant to Section 3.2 shall be credited to CLEC on Ameritech-Illinois' invoice to CLEC for network elements or other services on the first billing date that is not less than thirty (30) Business Days after dispute resolution negotiations conclude. Should dispute resolution fail, any request for Recourse Credits that Ameritech-Illinois that is ordered to honor pursuant to an order by the Illinois Commerce Commission or court of competent jurisdiction shall be credited to CLEC on Ameritech-Illinois' invoice to CLEC for network elements or other services on the first billing date that is not less than thirty (30) Business Days after the effective date of such order.
- 5.2 Where reimbursement is to be made by credit on Ameritech-Illinois' invoice to the CLEC, the invoice shall show separately the credit and the reason for it.
- 5.3 Any disputed request for a Recourse Credit which Ameritech-Illinois is ordered to pay by the Commission as the result of a formal complaint proceeding initiated by CLEC or by a court, arbitration panel or other tribunal as a result of a proceeding initiated by CLEC, shall bear interest from the date the formal complaint proceeding or other proceeding was initiated by CLEC to the date of payment. Any disputed request for refund or repayment of a Recourse Credit previously provided by Ameritech-Illinois which CLEC is ordered to pay by the Commission as the result of a formal complaint proceeding initiated by Ameritech-Illinois or by a court, arbitration panel or other tribunal as a result of a proceeding initiated by Ameritech-Illinois, shall bear interest from the date the formal complaint proceeding or other proceeding was initiated by Ameritech-Illinois to the date of payment.

## 6. OBLIGATION TO UPDATE

- 6.1 If CLEC becomes aware of any inaccuracy or omission in any information that it previously provided to Ameritech-Illinois to substantiate Recourse Credit claims, including if such inaccuracy or omission arises from events subsequent to the submission, CLEC shall notify Ameritech-Illinois of such inaccuracy or omission within five (5) Business Days of becoming aware of such inaccuracy or omission, and do so on a per-Claim basis. If in light of such inaccuracy or omission, a Recourse Credit(s) made should not or would not have been made under this Appendix, in whole

or in part (even if CLEC provided a Customer Credit), Ameritech-Illinois may recover the amount of such inappropriate credits on Ameritech-Illinois' upon providing CLEC with ten (10) days advance notice. If CLEC fails to dispute such notice within ten (10) days, CLEC shall be deemed to have agreed with Ameritech-Illinois' notice and Ameritech-Illinois may recover the amount of such inappropriate credits on its next invoice to CLEC. If CLEC disputes such notice, the Parties shall comply with the dispute resolution procedures set forth in the Agreement.

- 6.2 If Ameritech-Illinois denies a Recourse Credit request, in whole or in part, and becomes aware of any inaccuracy or omission in the facts that it relied upon for its decision for that denial, Ameritech-Illinois shall notify CLEC of such inaccuracy or omission within five (5) Business Days of becoming aware of such inaccuracy or omission on a per-Claim basis. If such inaccuracy or omission resulted in Ameritech-Illinois failing to pay Recourse Credits, in whole or in part, to CLEC that it otherwise should have paid, Ameritech-Illinois shall provide such Recourse Credit not less than thirty (30) Business Days after Ameritech-Illinois agrees that such Recourse Credit should have been paid.

## 7. RESERVATION OF RIGHTS

- 7.1 The Parties acknowledge and agree that this Appendix is the result of an Illinois law and Illinois Commerce Commission regulations imposing Illinois-specific requirements and is not entered into to fulfill any Section 251 or 252 requirement or obligation. Ameritech is not admitting that this Appendix or any subject addressed herein is subject to Section 251 or 252, nor is it waiving its rights to take any position with respect to the application of the Section 251/252 process. The parties further acknowledge and agree that this Appendix was therefore agreed upon outside of the negotiation procedures of 47 U.S.C. Section 252(a)(1). (*See SBC/Ameritech Order in CC Docket No. 98-141, FCC 99-279 at Condition 43, and Note 725*). The parties further acknowledge that the entirety of this Appendix and its provisions are non-severable, and are "legitimately related" as that phrase is understood under Section 252(i) of Title 47, United States Code, notwithstanding the fact that Section 252(i) does not apply to this Appendix.
- 7.2 This Appendix provides a mechanism to incorporate the 83 Ill. Admin. Code Section 732.35 and 220 ILCS 5/13-712 Illinois-specific requirements regarding Local Exchange Service Obligations. This Appendix is expressly conditional and is valid and binding only so long as no court or agency has ruled that the provisions of relevant 220 ILCS 5/13-712 or 83 Ill. Admin. Code Section 732.30 are unlawful, or has enjoined the effectiveness, application, or enforcement of those provisions, or has ruled that those provisions do not require all or any part of the provisions provided for in this Appendix. In any such event, the Appendix automatically expires and is no longer available upon and to the extent of any such ruling or injunctive action. In addition, the parties agree to

comply with the Intervening Law or Change of Law provisions within the Agreement to amend this Appendix in the event that there is a change in relevant 220 ILCS 5/13-712 or 83 IL Admin. Code requirements.